CITY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 979
Tuesday, May 13, 2008, 1:00 p.m.
Francis F. Campbell City Council Room
Plaza Level of City Hall
Tulsa Civic Center

MEMBERS PRESENT	MEMBERS ABSENT	STAFF PRESENT	OTHERS PRESENT
Henke, Chair		Alberty	Ackermann, Legal
Stead, Vice Chair		Cuthbertson	
Stephens		Huntsinger	
Tidwell, Secretary			
White			

The notice and agenda of said meeting was posted in the City Clerk's office, City Hall, on Wednesday, May 7, 2008, at 2:35 p.m., as well as at the Office of INCOG, 201 W. 5th St., Suite 600.

After declaring a quorum present, Chair Henke called the meeting to order at 1:00 p.m.

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Mr. Cuthbertson read the rules and procedures for the Board of Adjustment Public Hearing.

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MINUTES

On **MOTION** of **Tidwell**, the Board voted 5-0-0 (White, Henke, Stead, Tidwell, Stephens "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** the Minutes of April 8, 2008 (No. 977).

On **MOTION** of **Tidwell**, the Board voted 5-0-0 (White, Henke, Stead, Tidwell, Stephens "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** the Minutes of April 22, 2008 (No. 978).

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NEW APPLICATIONS

Case No. 20672

Action Requested:

Special Exception to permit a (Use Unit 5) Community Center (Garden) in an RM-2 district (Section 401); a Variance of the 12,000 sq. ft. minimum lot size, lot frontage of 100 ft., and 25 ft. building setback from an adjoining R zoned property (Section 404.F) for a special exception use in the RM district, located: 1221 West 7th Street.

Presentation:

William B. Moore, 2657 East 58th Street, Tulsa, Oklahoma, stated he acquired the subject property in the 1980's. He added that his lot abuts New Block Park on the west side. He has used it as a vegetable garden since 2007 and shared the produce with the neighbors. They placed a storage building on the lot to store cultivation equipment. In 2008 they constructed an eight-foot addition to the building. He assured the Board that the property would be maintained well.

Interested Parties:

Scott Smith, 730 Phoenix Avenue, was in support of this application. He stated it would be helpful to the neighborhood. He expressed concerns about the future use of the property since it is private property.

John Williamson, 1217 West 7th, stated he lives next door to the subject property. He was opposed, noting the building was moved and added on without a permit. He also expressed concerns regarding undue traffic, maintenance of the garden, security of the garden and his own property, and the environmental impact of unmonitored pesticides next to the river and a public park. He questioned the need for insurance. Mr. Williamson also mentioned there is no source of water on the subject property. He mentioned the federal standards of a property adjacent to a national historical park that require certain things regarding new construction.

Comments and Questions:

Ms. Stead asked Mr. Williamson if they actually planted a garden last year and how things went. He replied that they did plant a garden and things were going well until toward the end of the summer, when it was allowed to be overgrown.

Mr. Stephens asked if Mr. Williamson would be opposed to the structure if it were on another part of the lot. He replied he might not be if moved further back and on a good foundation. Mr. Tidwell asked how large the garden was in comparison to the size of the lot. He replied about 1/12th of the lot. He was familiar with community gardens in California. He suggested that each gardener have their area separated by fences if it is approved. He also mentioned the garden could attract wild animals.

Jeffrey Donaldson, 719 South Quanah Avenue, Tulsa, Oklahoma 74127, asked if the Board approved this application, if it would be best to require the owner to

provide running water by a certain date. He also asked if the neighborhood gardeners can be protected against a sudden reversal of use or sale of the property.

Santiago Sabala, 107 South Rosedale, stated he was with the Crosby Heights Neighborhood Association. He thought it would give the children some training to live off the land.

Miriam Mills, 710 South Phoenix, Tulsa, Oklahoma 74127, stated she talked with the applicant. She thought there needs to be some research of other community garden and organization of the project. She thought the building should be moved back as suggested and better secured.

Applicant's Rebuttal:

Mr. Moore stated he planned to organize a committee, select the sites, prepare and develop the site and have insurance. He was willing to obtain a water meter.

Ms. Stead asked who would prepare the land, to which he replied he had someone to till the soil. He responded to other questions that each gardener would plant their own plots of 25 sq. ft. each.

Mr. Moore stated he would provide the insurance and move the building. Ms. Stead noted the staff comments to the applicant that the City does not have performance standards for community gardens. It would seem that a community garden would perform in a manner similar to a community center. The Board would like to know performance measures suggested in the staff comments for this application. The list includes the garden be accessible to the residents of the neighborhood; with standards for planting and harvesting; shared access to the accessory building; hours of accessibility; identification sign(s); no selling items grown on the property; no heavy farming equipment/machinery; any lighting should be sensitive to abutting residential properties; and neighborhood association adoption. She added that usually this type of application comes to the Board with some City of Tulsa involvement. The Board would request a statement that insurance and water would be supplied.

Mr. Cuthbertson stated he found many examples of community gardens across the country. They were almost all organized by a non-profit or municipality not by a private individual to be maintained on private property. He added that any structure for community use in a residential district has to be setback 25 ft. from the abutting property line. Mr. White asked about setbacks for the garden. Mr. Ackermann replied that on residential property the garden portion of the yard would be allowed to encroach into the required yards, but the structure would have to meet the required setbacks from the lot lines.

Board Action:

On **Motion** of **Stead**, the Board voted 5-0-0 (White, Stephens, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **CONTINUE** Case No. 20672 to the meeting on June 10, 2008, on the following described property:

LT 10 BLK 12, CROSBIE HGTS, City of Tulsa, Tulsa County, State of Oklahoma

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Case No. 20675

Action Requested:

A Variance of 2 sq. ft. per lineal ft. of wall for a wall sign in a PUD from 210 to 335 sq. ft. to add an additional sign on the east elevation (Section 1221.D), located: 5801 East 41st Street.

Presentation:

Gary Larson, 533 South Rockford, represented City National Bank, a major tenant in the building on the subject property. They requested relief to place a sign on the east elevation that is proportional and will maintain a visibility and legibility from the street (Exhibit A-1). He stated the request is identical to the variance that was granted for the south elevation of the building.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion** of **Stead**, the Board voted 5-0-0 (White, Stephens, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a Variance of 2 sq. ft. per lineal ft. of wall for a wall sign in a PUD from 210 to 335 sq. ft. to add an additional sign on the east elevation (Section 1221.D), finding the zoning code for the City of Tulsa anticipates mostly shorter buildings, and this being a ten-story building that it is appropriate; finding by reason of extraordinary or exceptional conditions or circumstances which are peculiar to the land, structure or building involved, the literal enforcement of the terms of the Code would result in unnecessary hardship; that such extraordinary or exceptional conditions or circumstances do not apply generally to other property in the same use district; and that the variance to be granted will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of the Code, or the Comprehensive Plan, per plan as shown on page 3.7 of the agenda packet, on the following described property:

LT 2 BLK 1, MID-AMERICA OFFICE PARK AMD RSB L1-3B1 MID-AM OFFICE PARK, City of Tulsa, Tulsa County, State of Oklahoma

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Case No. 20676

Action Requested:

Modification of a previously approved site plan to permit additional parking for an existing child care center in an RS-3 district, located: 4239 North Kenosha Avenue.

Presentation:

Bill Cyganovich, Project Manager, represented the applicant, for the modifications submitted to the Board (Exhibit B-1). The applicant was informed she needed ten additional parking spaces. They planned to put ten parking spaces on the south side of the building.

Comments and Questions:

Ms. Stead stated she would like to see screening on the south side of the parking lot.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion** of **Stead**, the Board voted 5-0-0 (White, Stephens, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a Modification of a previously approved site plan to permit additional parking for an existing child care center in an RS-3 district, with condition for a six-foot solid screening fence on the south side, per plan as shown on page 4.7 in the agenda packet, finding it will be in harmony with the spirit and intent of the code and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare, on the following described property:

LTS 4, 5, 6 BLK 8, SUBURBAN ACRES AMD, City of Tulsa, Tulsa County, State of Oklahoma

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Case No. 20677

Action Requested:

Special Exception to permit a carport in the required front yard in an RS-3 district (Section 210.B.10); and a Variance of the minimum side yard setback for a carport in the required front yard (Section 210.B.10.b, located: 2023 East Xyler Street North.

Presentation:

John Jones, 2923 East Xyler, stated his request. He stated the two-foot variance applies on the west side only (Exhibit C-1).

Comments and Questions:

Ms. Stead asked Mr. Jones if he had an existing carport and wants to build another one, to which he replied affirmatively.

Interested Parties:

David Patrick, City Councilor, District 3, stated he was aware of the history of this property. He was supportive of this application. He stated the neighbors are in support. He did not expect it to be a detriment to the neighborhood.

Comments and Questions:

Ms. Stead asked Mr. Jones for the size of his lot. Mr. Jones thought was 149' x 49'. He added that most of the lots are 150' x 50'.

Board Action:

On **Motion** of **Stead**, the Board voted 5-0-0 (White, Stephens, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** the Special Exception to permit a carport in the required front yard in an RS-3 district (Section 210.B.10); and a Variance of the minimum side yard setback for a carport in the required front yard (Section 210.B.10.b), per plan as shown on page 5.6 of the agenda packet; noting the variance is from 5 feet to 2 feet; carport is to be no larger than 18' x 20'; all surfaces under carport to be concrete or asphalt; finding the narrow lot creates a hardship of usability; and finding by reason of extraordinary or exceptional conditions or circumstances which are peculiar to the land, structure or building involved, the literal enforcement of the terms of the Code would result in unnecessary hardship; that such extraordinary or exceptional conditions or circumstances do not apply generally to other property in the same use district; and that the variance to be granted will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of the Code, or the Comprehensive Plan; and finding the special exception will be in harmony with the spirit and intent of the code and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare, on the following described property:

LT 10 BLK 4, COOTS 2ND ADDN AMD, City of Tulsa, Tulsa County, State of Oklahoma

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Case No. 20678

Action Requested:

Variance of the 75 ft. setback requirement for an industrial development from an abutting R district to the east (Section 903), located: 6124 East 30th Street North.

Presentation:

George Donker, 6338 East Admiral Place, proposed to build a warehouse on the subject property (Exhibit D-1). The Tulsa Airport Authority owns the only two RS-3 lots on the east and they were contacted. Jeff Hogue, Deputy Director of

Engineering and Facilities replied by email (Exhibit D-2), stating they intend to get re-zoning for those lots to IL and they have no objections to the application. They have planned for 75' setbacks for other residential lots to the south and west.

Comments and Questions:

Ms. Stead asked about wood fences to the south and west R districts. Mr. Donker replied they plan to comply with all other zoning requirements. Ms. Stead confirmed that all driving and parking surfaces will be asphalt.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion** of **White**, the Board voted 5-0-0 (White, Stephens, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a Variance of the 75 ft. setback requirement for an industrial development from an abutting R district to the east (Section 903), with conditions for six-foot solid surface screening fence on the south and west; per plan as shown on page 6.8 of the agenda packet with the exception that all driving and parking surfaces be asphalt; finding the hardship to be that the two R-zoned lots to the east are owned by the Airport Authority and are scheduled to be re-zoned IL; finding by reason of extraordinary or exceptional conditions or circumstances which are peculiar to the land, structure or building involved, the literal enforcement of the terms of the Code would result in unnecessary hardship; that such extraordinary or exceptional conditions or circumstances do not apply generally to other property in the same use district; and that the variance to be granted will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of the Code, or the Comprehensive Plan, on the following described property:

LT 3 BLK 1, FASCO INDUSTRIAL PARK, City of Tulsa, Tulsa County, State of Oklahoma

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Case No. 20679

Action Requested:

Special Exception to permit church use in an IL district (Section 901) to permit an accessory gym addition to an existing church, located: 1307 West 22nd Street South.

Presentation:

James Kent, Pastor, 1307 West 22nd Street South, proposed to build a gymnasium 40' x 96' next to the church building (Exhibit E-1). They discovered the zoning was IL, though the church has been using the property for 80 years.

Comments and Questions:

Kurt Ackermann, indicated they need to keep the same number of spaces because it is determined by the size of the sanctuary.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion** of **White**, the Board voted 5-0-0 (White, Stephens, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a Special Exception to permit church use in an IL district (Section 901) to permit an accessory gym addition to an existing church, per plan as shown on page 7.6 of the agenda packet, finding the special exception will be in harmony with the spirit and intent of the code and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare, on the following described property:

LTS 7 - 12 & S10 VAC ALY ADJ ON N BLK 4 Less the North 35 ft. of Lots 11 & 12, CLINTON ADDN, City of Tulsa, Tulsa County, State of Oklahoma

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Case No. 20680

Action Requested:

A Special Exception to permit an electrical contracting service (Use Unit 15) in a CS district. (Section 701), located: 9702 East Admiral Place.

Presentation:

John Moody, attorney for the applicants, Wayne and Janice Williams, submitted a site plan (Exhibit F-1). They are the property owners. He noted the surrounding commercial properties. Use Unit 17 was previously approved for the sale of mobile homes on the property with some conditions. This application would comply with those conditions. The use would be for an underground electrical utility contractor. They have contracts with the Public Service Company for the installation of plastic conduit through which PSO runs electrical wires. They would park their company trucks to the northeast of the office building on the property, noted as Parking Areas A and B. There would also be an existing storage building on the south side of the access drive. All of this area has screening fences inside the property line. A less intense use is proposed than that which existed. The access is just for this property without impinging on residential streets. He indicated the paved drive was approved by traffic engineering for the original development for mobile home sales. They would have no customers to the property. The applicant proposed to use the gravel parking, considering trucks would only go out and return once per day. They do not expect to add more than one or two more trucks.

Comments and Questions:

Ms. Stead confirmed with the applicant that the floodplain is in the AG district only and all use will be in the CS.

Richard Croft, Area Manager of the contracting company, stated they have a two-year contract that is renewed each year based on performance. This project is expected to last twelve to fifteen years.

Interested Parties:

Wayne Bohannon, 10617 East 1st Street, Tulsa, Oklahoma, 74128, President of Wagon Wheel Neighborhood Association, Inc. He expressed concern for the possible traffic hazards of using the traffic circle. He also noted that going south from the traffic circle the two lanes narrow to one lane near the entrance to the property.

Dennis Troyer, City Councilor, District 6, 12811 East 13th Place, Tulsa, Oklahoma, 74128 questioned that the traffic from this property would be less than before. They would also be concerned about the dust and outside storage of the reels. They would prefer hard-surface parking. He questioned the length of the screening fence. He wanted to know if future use would be the same as this one.

Mr. White asked if he would be satisfied with a two-year approval and new assessment by the Board at the end of that time. Councilor Troyer thought the neighborhood would be in favor of that.

Mr. Stephens suggested this would be far less traffic than mobile home retail sales.

Ms. Stead asked for legal opinion regarding the use unit requested. Mr. Ackermann replied that the approved Use Unit 17 would be different than the requested Use Unit 15. She stated she would be more in support of asphalt paved drive and parking. Mr. Ackermann stated this is a different scenario. A variance of paved parking was not advertised. The Board would have to determine if this application differs enough from the previous relief granted that the variance no longer applies. If so, the applicant would need to come back to the Board with a request for he variance separately.

Applicant's Rebuttal:

Mr. Moody reminded the Board that the original use drew 15 to 18 customers per day. That is why they provided 25 parking spaces. He stated that the mobile home sales across the street would cause more dust than this less intense use. The property owner has not had complaints of dust. They are not changing the site plan from when it was approved for the Use Unit 17.

Mr. Alberty clarified a point, that the plans examiner/zoning official has the right to accept or deny the previous action. It is not for discussion today. If he determines that the change of use will also require a variance, then he will be coming back to the Board.

Mr. Moody replied to a question that they would agree to screening the outside storage from view outside the property line.

Board Action:

On **Motion** of **White**, the Board voted 5-0-0 (White, Henke Stephens, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a Special Exception to permit an electrical contracting service (Use Unit 15) in a CS district. (Section 701), per plan submitted May 13, 2008, with conditions for all activity in the CS district; a two-year limit from May 13, 2008; outside storage material to be screened and not visible from outside the property line; with review in two years, finding the special exception will be in harmony with the spirit and intent of the code and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare, on the following described property:

ALL BLK 1, VAN ESTATES NO 3, VAN ESTATES NO 4, City of Tulsa, Tulsa County, State of Oklahoma

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Case No. 20681

Action Requested:

Special Exception to permit seasonal retail sales and open air activities in the CS and CO district (Section 701 & 801) and a Special Exception to permit alternative off-street parking materials (Section 1202.C.1), located: Northeast of South Mingo Road and East 81st Street South.

Presentation:

Lonnie Bassey, 4732 South Columbia Place, proposed seasonal retail sales and open area activities in the CO and CS districts. They plan for family entertainment in the form of a corn maze in the expansion. The corn maze is a field of corn with a designed maze.

Comments and Questions:

Ms. Stead noted there is a filling station across the street and expressed concern related to the potential fire hazard once the corn is dry. She asked if they had any security for after hours. He replied they would have on-site security 24/7. They will plant it later than normal for harvesting. The corn is green for the time it is utilized. They would have it open during daylight hours only and it would not be lighted.

Mr. Bassey asked for approval of three years, which would match approval time for other seasonal sales at the corner of 81st St. and S. Mingo Rd. that was previously approved by the Board.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion** of **White**, the Board voted 5-0-0 (White, Stephens, Henke, Stead, Tidwell "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a Special

Exception to permit seasonal retail sales and open air activities in the CS and CO district (Section 701 & 801) and a Special Exception to permit alternative off-street parking materials (Section 1202.C.1), per plan as shown on page 9.7 of the agenda packet, and the narrative on page 9.6, with conditions that the corn maze area be cleared immediately after October 31st; security provided 24 hours, seven days per week for 40 days for the commercial activities in the corn maze; approval for three years to July 11, 2011, finding the special exception will be in harmony with the spirit and intent of the code and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare, on the following described property:

GOV LT 4 LESS N30 THEREOF & LESS BEG SECR GOV LT 4 TH W375 N580 E375 S580 POB & LESS BEG SWC SW TH N TO NWC SW NW TH E50 S1233.74 SE40 E315 S 8 E442.62 S50 W TO POB SEC 7 18 14 28.569ACS, City of Tulsa, Tulsa County, State of Oklahoma

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Mr. Henke recused himself from Case No. 20682 at 3:05 p.m.

Case No. 20682

Action Requested:

Variance of the maximum number of business signs permitted in an OL district; and a Variance of the maximum permitted display surface area for a ground sign in the OL district; to permit a third business sign (Section 602.B.4), located: 30 West 21st Street.

Presentation:

James Adair, 7508 East 77th Street, Tulsa, Oklahoma 74135, represented First Fidelity Bank. He informed the Board that Mr. John Burks, Executive Vice-President, was present to answer any questions of the Board. The architect received different information than the zoning code as it is today. They could have configured the footage for the signage differently. He noted the change of personnel at the City office also caused a difficult timing for the construction and installation of the sign. He stated the extent of what the applicant requested is less than the standard usage. They contacted the homeowners' association, which sent a letter to the Board (Exhibit I-1). They were not in support.

Comments and Questions:

Mr. Adair responded to the question of a hardship. He considered the hardship the misinformation by the City and change in zoning code with the timing of obtaining approval and constructing the sign for installation.

Interested Parties:

Dean Day, 31 West 22nd Street, President of the HOA for the townhomes immediately behind the subject property. He stated the 20' pole sign is not compatible with what was built and not what he expected when he purchased his

home. They are in support of the bank at this location. They would be more in support of a monument sign to compliment what they have built. He was opposed to this application.

Chip Atkins, 1638 East 17th Place, was in agreement with Mr. Day. He considered the hardship to be self-imposed and the sign would cause visual pollution. He stated it would be a safety issue for traffic. He noted the other banks in the same vicinity do not have pole signs.

Applicant's Rebuttal:

Mr. Adair responded, referring to the letter from Cherie Cook, for a ground sign. A monument sign would be agreeable to the applicant. He offered a monument sign of 12' high and bricked like the building and a stone pylon to match the building. They would want to place the sign at the same location. They would also want to use constant lighting.

Board discussion ensued.

Board Action:

On **Motion** of **White**, the Board voted 3-1-1 (White, Stephens, Stead "aye"; Tidwell "nays"; Henke "abstained"; no "absences") to **DENY** a Variance of the maximum number of business signs permitted in an OL district; and a Variance of the maximum permitted display surface area for a ground sign in the OL district; to permit a third business sign (Section 602.B.4), for lack of hardship, on the following described property:

PRT LT 1 BEG 129.05S & 20W & 11S & 165.55W MOST ELY NEC LT 1 TH W179.33 NELY CRV LF 27.75 E1.21 N89.50 CRV RT 59.69 N14.93 E136.45 S170 POB BLK 2, TUDORS II, THE RSB PT B3 THIRD AMD RIVERSIDE DR AD, City of Tulsa, Tulsa County, State of Oklahoma

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OTHER BUSINESS

Ms. Stead stated the election of officers is scheduled for the first meeting in June, on June 10, 2008.

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There being no further business, the meeting adjourned at 3:36 p.m.

Date approved: 5/27/08

Chair